

LABOUR DEPARTMENT

The 27th May, 1985

No. 9/5/84-Lab./3068.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Ambica Automats 3-C/73, N. I. T., Faridabad.

BEFORE SHRI R. K. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 359/ 1982

between

SHRI SURESH WALLIA, WORKMAN AND THE MANAGEMENT OF M/S AMBICA
AUTOMATS, 3-C/73, N. I. T., FARIDABAD

Present :—

Shri R. P. Singh for the workman.

None for the management.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of Section-10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Suresh Wallia, workman and the management of M/s Ambica Automates, 3-C/73, N. I. T., Faridabad, to this Tribunal, for adjudication: --

Whether the termination of services of Shri Suresh Wallia, was justified and in order? If not, what relief is he entitled to?

2. Notices were issued to both the parties. The claimant in his claim statement dated 2nd November, 1982, alleged that he was employed by the respondent on 1st April, 1980 as Machine Setter and was drawing Rs 1,200 per month as wages. It was then alleged that the management terminated the services of the claimant on 18th May, 1982 without any charge-sheet or enquiry and had not complied with the mandatory provisions of section 25-F, of the Industrial Disputes Act, 1947, in as much as no notice pay and retrenchment compensation was given to the claimant. It was, therefore, prayed that the claimant be reinstated with full back wages.

3. The management in their written statement, dated 17th December, 1982, pleaded that the claimant was not a workman and that the respondent-management was covered under the Shop and Commercial Establishment Act. It was further pleaded that the termination of service was effected due to loss of faith in him and that it was not a case of retrenchment.

4. The claimant in his rejoinder reiterated the pleas taken in the claim statement. It may be mentioned that the issues were framed on 27th December, 1982 and the claimant examined himself and produced documents Ex. W-1, W-2 and W-1/A and the case was fixed for evidence of the management. On 5th March, 1985 Shri R. C. Sharma, representative of the management, stated that after the last date of hearing, he had gone to contact the management and found that the factory did not exist and had been closed for the last about one year as told by the neighbour. He pleaded to instructions. Consequently, *ex parte* proceedings were ordered against the management. Shri Suresh Wallia claimant stated that the factory was closed by the management about two months ago, when the power shortage started and that prior to that it was working.

5. Shri Suresh Wallia workman has appeared as WW-1 and stated that he joined service of the respondent on 1st April, 1980 as Machine Setter and was getting Rs 1,200 per month as wages. He further stated that he used to set all types of machines of the respondent and that he used to go outside the factory to check up the rejected goods and remove the defects. He further stated that he never sanctioned leave to any workman nor did he issue charge-sheet or show cause notice to any workman. He further stated that his services were terminated on 18th May, 1982 without any notice or payment of compensation and that the management had threatened him due to which he reported the matter to the Police/Labour Department,—vide documents Ex. W-1 and W-2 and Ex. W-1/A. He further stated that the respondent concern was not registered under the Shop and Commercial Establishments Act and that no amount was remitted to him by money order or cheque. On 25th March, 1983, Mr. R. C. Sharma, representative of the management stated that the name of the respondent-management was not registered under the provisions of Shop and Commercial Establishments Act and as such he did not want to examine Shri Dharambir Clerk of that office. Consequently, the respondent is not covered under the provisions of Shops and Commercial Establishment Act.

6. WW-1 Shri Suresh Walia stated that he was employed as Machine Setter and used to set the machines and also went outside the factory to check up the rejected goods and remove defects. Consequently he was performing the job with his own hands and as such he was covered by the definition of the workman given in section 2(s) of the Industrial Disputes Act, 1947.

7. Shri Suresh Walia (WW-1) stated that he joined duty on 1st April, 1980 and his services were terminated on 18th May, 1982 without any notice or notice pay or compensation. Consequently the provisions of Section 25-F of the Industrial Disputes Act have not been complied with and as such he is entitled to notice pay or compensation as provided under section 25-F of the Industrial Disputes Act, 1947. Shri R. C. Sharma, stated that he was told by the neighbour that the factory was closed for the last one year. No documentary evidence has been led in this respect. The alleged neighbour has not been produced by the management. On the other hand, the claimant stated on 15th March, 1985 that the factory was lying closed for the last two months due to power shortage and that previously it was being run. The fact, therefore, remains that the factory is now lying closed and according to the testimony of WW-1 Shri Suresh Walia, it was closed on 15th January, 1985, i. e., two months prior to making statement on 15th March, 1985. As such the claimant is not entitled to reinstatement but he is entitled to notice pay and compensation in accordance with the provisions of Section 25-FFF of the Industrial Disputes Act, 1947 wherein it is laid down that in case of closing down of undertaking, the workman would be entitled to notice pay and compensation in accordance with the provisions of Section 25-F as if the workman has been retrenched. The claimant would also be entitled to full back wages from the date of termination of service, i. e., 18th May, 1982 till the closure of the factory, i. e., 15th January, 1985.

In view of the above discussion, the claimant is entitled to notice pay and compensation as provided in Section 25-FFF of the Industrial Disputes Act, 1947 and full back wages for the period 15th May, 1982 to 15th January, 1985, but he is not entitled to reinstatement for the reasons given above. The award is passed accordingly.

Dated, the 4th April, 1985.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 291, dated the 6th April, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as provided under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 3rd May, 1985

No. 9/5/84-6Lab/3435.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s A. P. Engineering Works, Plot No. 81, Sector 24, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 24/1984

between

SHRI SHER BAHADUR WORKMAN AND THE MANAGEMENT OF M/S A. P. ENGINEERING,
WORKS, PLOT NO. 81, SECTOR 24, FARIDABAD

Present :

Shri C. L. Dora, for the management.
None, for the workman.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Sher Bahadur workman and the management of M/s A. P. Engineering Works, Plot No. 81, Sector 24, Faridabad, to this Tribunal, for adjudication :—

Whether the termination of services of Shri Sher Bahadur was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. It may be mentioned that on the last date of hearing, none appeared on behalf of the workman even though he was represented previously and as such *ex parte* proceedings were ordered against the workman. Shri Chuni Lal Dora, representative of the management stated that the dispute between the workman and the management had already been settled—*vide* settlement Ex. M-1 and that the workman had already received Rs 2,000 in full and final settlement of his claim,—*vide* voucher Ex. M-2 and no dispute was now left between the parties and further that both those documents were correct and bore the signatures of the claimant as well and that the settlement Ex. M-1 bore his signatures. He further stated that payment was made of the claimant in the presence of Shri J. P. Sharma, Labour Inspector, Circle-III, Faridabad. In view of the above testimony of Shri Chuni Lal, representative of the workman and recitals made in the documents Ex. M-1 and M-2, the dispute between the Parties stands settled as mentioned above. The award is passed accordingly,

Dated the 18th April, 1985.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 334, dated 18th April, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 15th May, 1985

No. 9/5/84-6Lab/3640.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Haryana Agro Industries Corporation Ltd., S.C.O. No. 825-26, Sector 22-A, Chandigarh.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 3 of 84

between

SHRI BACHAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S HARYANA AGRO INDUSTRIES CORPORATION, LIMITED, S.C.O. NO. 825-26, SECTOR 22-A, CHANDIGARH.

Shri S. N. Solanki, A. R. for the workman.

Shri S. Kaushal, A.R. for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between Shri Bachan Singh, workman and the management of The Haryana Agro Industries Corporation Limited, S.C.O. No. 825-26, Sector 22-A, Chandigarh to this Court, for adjudication,—vide Labour Department Gazette Notification No. 3487-92, dated 20th February, 1984:—

Whether the termination of services of Shri Bachan Singh, is justified and in order? If not, to what relief is he entitled?

2. On the receipt of the order of the reference notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent as a Sales-man on 1st November, 1979 and worked as such upto 8th January, 1983, on which date, the respondent choose to terminate his services unlawfully, though the workman had actually worked with the respondent for more than 240 days, so there is prayer for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, it is admitted that the workman was employed on daily wages of Rs. 14 and that his services were retrenched to effect economy in expenditure and that beside other workmen, other Salesmen, two Clerks and fifty casual workers were also retrenched and that after the retrenchment of the workman, no salesman has been employed by the respondent.

3. On the pleadings of the parties the following issue was settled for decision on, 19th December, 1984:—

Whether the termination of services of Shri Bachan Singh, is justified and in order? If not, to what relief is he entitled?

4. Today the case was fixed for evidence of the workman. The statement of the workman was recorded and thereafter a settlement was arrived at, whereunder, the respondent has agreed to re-employ the workman as and when any vacancy is available with the respondent. In view of the stand taken by the respondent, the learned Authorised Representative of the workman Shri S.N. Solanki rightly stated that this was the relief which could be granted to the workman and as such nothing survives for adjudication. The reference is answered and returned accordingly. There is no order as to cost.

The 4th April, 1985.

R. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonapat.

Endst. No. 3-84/650, dated the 26th April, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonapat.

No. 9/5/84-6 Lab/3644.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Somany Pilkingtons Ltd., Bahadurgarh, District Rohtak.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 9 of 1982

between

SHRI RIASAT HUSSAIN, WORKMAN AND THE MANAGEMENT OF M/S SOMANY
PILKINGTONS LTD., BAHADURGARH, DISTRICT ROHTAK

Present:—

None for the workman.

Shri Sudhir Chaddha, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Riasat Hussain and the management of M/s. Somany Pilkingtons Ltd., Bhadurgarh, District Rohtak to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/RTK/194-81/580 dated 5th January, 1982:—

Whether the termination of services of Shri Riasat Hussainis was justified and in order ? If not, to what relief is he entitled ?

1. On the receipt of the order of the reference notices were issued to the parties. The parties appeared. The case of the workman is that he was a permanent employee of the respondent and his monthly wages were Rs. 450 and that on trumped up charges, a chارشیت dated 26th November, 1979 was issued to him and a Farce of domestic enquiry was held and that the services of the workman were terminated on 13th June, 1981 in gross violation of the provisions of the Industrial Disputes Act, 1947.

2. In the written reply filed by the respondent the claim of the workman has been controverted. It is asserted that a valid and proper domestic enquiry was held and the workman was given full opportunity of joining the enquiry proceedings.

3. On the pleadings of the parties the following issues were settled for decision on 29th April, 1982:—

Whether the domestic enquiry conducted by the management is fair and proper in accordance with the principal of natural justice ?

2. Whether the termination of services of Shri Riasat Hussain was justified and in order ? If not, to what relief is he entitled ?

4. Before any evidence could be recorded the workman absented and so, the reference was ordered to be dismissed for non prosecution. The same is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,

Dated, the 4th April, 1985.

Presiding Officer,
Labour Court, Rohtak.

Endst. No. 9/82/654, dated the 26th, April, 1985.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6 Lab/3651.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Ajay Udyog (P) Ltd., Bahadurgarh Rohtak:—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 169 of 1984

between

SHRI SIRI RAM, WORKMAN AND THE MANAGEMENT OF M/S AJAY UDYOG (P) LTD.,
BAHADURGARH (ROHTAK)

Present.—

Shri Dhan Singh, A. R. for the workman.

None for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Siri Ram and the management of M/s Ajay Adyog (P) Ltd., Bahadurgarh to this Court, for adjudication,—vide Labour Department Gazette Notification No. 33572-77, dated 3rd September, 1984:—

Whether the termination of services of Shri Siri Ram is justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were sent to the parties. The workman appeared but the respondent did not appear inspite of service through registered notice. Since many references are pending against the respondent, so, a combined registered notice was sent to the respondent which is tagged with reference file No. 166 of 84. The respondent did not appear inspite of service and as such, *ex parte* proceedings order was passed against him by me on 27th December, 1984.

3. The case of the workman is that he was employed with the respondent on 1st January, 1982 as Bhattiman on monthly wages of Rs 375 but the respondent choose to terminate his services unlawfully without any prior notice or payment of any retrenchment compensation and as such the respondent contravened the provisions of section 25-F of the Industrial Disputes Act, so, there is a prayer for reinstatement with continuity of service and full back wages.

4. As already observed, the respondent did not appear inspite of service and as such *ex parte* proceedings order was passed against the respondent by me on 27th December, 1984.

5. In *ex parte* evidence, the workman appeared as his own witness as WW-1 and made a statement completely in corroboration of his claim. I, see no reason to disbelieve the sworn deposition made by the workman, which remains unrebutted, because the respondent did not appear to contest the claim of the workman. So, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,

Presiding Officer,

Labour Court, Rohtak,
Camp Court, Bahadurgarh.

Dated, the 18th April, 1985.

Endorsement No. 169/84/661, dated the 26th April, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,

Labour Court, Rohtak,
Camp Court, Bahadurgarh.

No. 9/5/84-6Lab/3655.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of the Haryana Roadways, Sirsa.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 97 of 1983.

between

SHRI PREM KUMAR, WORKMAN AND THE MANAGEMENT OF THE HARYANA
ROADWAYS, SIRSA.

Shri S. S. Gupta, A.R. for the workman.

Shri V. K. Kohli, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Prem Kumar and the management of Haryana Roadways, Sirsa, to this Court, for adjudication,—
vide Labour Department Gazette Notification No. ID/HSR/127-83/30994-98, dated 30th June, 1983 :—

Whether the termination of service of Shri Prem Kumar was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent as a Washing Boy and that the management choose to terminate his services with effect from 28th September, 1979 on the charge of absentism without conducting any domestic enquiry, because the order of termination though innocuously worded was punitive in nature and as such, the respondent was not justified in terminating his services without holding a proper domestic enquiry.

3. In the reply filed by the respondent, preliminary objections taken are that no cause of action has accrued in favour of the workman, because he has since been reinstated and that the claim of the workman is not maintainable in the present form. On merits, it is admitted that the workman was employed as Washing Boy but it is alleged that his work and conduct was not satisfactory and at the time of personal hearing the workman failed to prove his innocence and prayed for mercy and so, the workman was reinstated in service and that the workman had undertaken not to press for back wages.

4. On the pleadings of the parties, the following issues were settled for decision on 11th January, 1985 :—

- (1) Whether no cause of action has accrued in favour of the workman ?
- (2) Whether the reference is bad in law ? OPR.
- (3) Whether the termination of service of Shri Prem Kumar was justified and in order ? If not, to what relief is he entitled ?

5. The parties were allowed to produce their evidence. The workman appeared as his own witness as WW-1 and the respondent examined Shri Siri Ram, Clerk, as MW-1. My findings on the issues framed are as below :—

Issues No. 1 and 2

The learned Authorised Representative of the respondent did not press these issues in view of the fact that the workman has since been reinstated in the month of September, 1984. So, these issues are answered against the management.

Issue No. 3

On this issue also, the only question which survives for adjudication is regarding back wages. The plea of the management that the workman had undertaken to forego his back wages at the time he was reinstated is not tenable, because in the petition filed by the workman before the State Transport Controller, Haryana, Chandigarh, it is nowhere stated that the workman will not press for back wages. He simply begged for merciful order of reinstatement. Copy of the petition filed by the workman is Ex. MW-1/1. From this petition no inference can be drawn that the workman had relinquished his right of back wages. In case of reinstatement awarding of back wages is a normal rule by the Court and the present case reinstatement has been ordered by the respondent itself, so, there are no reasons as to why the workman should not be entitled to back wages also. So, in view of the fact that the workman has already been reinstated in the month of September, 1984, he is awarded full wages from the date of termination to the date of reinstatement with benefits of continuity of service. The reference is answered and returned accordingly. There is no order as to cost.
Dated, the 24th April, 1985.

Endst. No. 97/83/665, dated 26th April, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.
Camp Court,
Hissar.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.
Camp Court,
Hissar.